

Incidental Take Permit Guidelines for Timber Operations, 2007

California Code of Regulations, Title 14, Division 1, Subdivision 3,
Chapter 6 Regulations for Implementation of the California Endangered
Species Act, Article 3. Incidental Take Permit Guidelines for Timber
Operations

[45 Day Notice Published May 11, 2007]

Adoption contents:

Article 3. Incidental Take Permit Guidelines for Timber Operations

- | | |
|--------------|---|
| 787.0 | Purpose and Scope of Regulations |
| 787.1 | Definitions |
| 787.2 | Incidental Take Determination for Timber Operations. |
| 787.3 | Take of Coho Salmon from Timber Operations Prohibited |
| 787.4 | Incidental Take Permit from Timber Operations
Required |
| 787.5 | Incidental Take Permit for Timber Operations Not
Required. |
| 787.6 | Jeopardy from Timber Operations Prohibited |
| 787.7 | Incidental Take Permit by Certification for Timber
Operations |
| 787.8 | Financial Security for Incidental Take Permit by
Certification |
| 787.9 | Coho Salmon Impact Evaluation |

1 **Adopt: 787.0. Purpose and Scope of Regulations.**

2 (a) The purpose of this article is to establish rules and
3 guidelines in accordance with Section 2112 of the Fish and Game Code
4 to implement Fish and Game Commission policies regarding the issuance
5 of incidental take permits pursuant to Section 2081 of the Fish and
6 Game Code for timber operations or activities that may take coho
7 salmon, a species that is listed as threatened or endangered under the
8 California Endangered Species Act, Fish and Game Code sections 2050,
9 et seq. ("CESA"). The Fish and Game Commission approved the *Recovery*
10 *Strategy for California Coho Salmon (Oncorhynchus kisutch)* (February
11 2004), and approved for inclusion specified policies pursuant to
12 Section 2112 of the Fish and Game Code to guide the issuance of
13 incidental take permits under Section 2081 of the Fish and Game Code
14 for timber operations or activities. This article sets forth rules and
15 guidelines to implement those policies. In accordance with section
16 2112 of the Fish and Game Code, this article specifies conditions and
17 circumstances when: (1) take is prohibited; (2) an incidental take
18 permit is required; and (3) an incidental take permit is not required.
19 This article outlines various ways to obtain incidental take permits
20 for timber operations and activities, including an expedited process
21 for obtaining incidental take permits by certification pursuant to
22 these regulations, and through the normal permitting process set forth
23 in CESA implementing regulations, California Code of Regulations,
24 title 14, section 783.0 et seq.. The standards for issuance of
25 incidental take permits are the permit issuance criteria set forth in
section 2081(b) and (c) of the Fish and Game Code. This article is not

1 intended to create a presumption that any particular timber operation
2 or activity will incidentally take coho salmon.

3 (b) This article does not affect the Department's authority to
4 authorize take pursuant to any other provision of the Fish and Game
5 Code or any other provision of the California Code of Regulations
6 including, but not limited to, take authorizations issued or approved
7 by the Department pursuant to section 2835 of the Fish and Game Code.

8
9 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

10 Reference: Sections 702 and 2112, Fish and Game Code.

11
12 **Adopt: 787.1. Definitions.**

13
14 (a) The terms used in this article are defined by the definitions
15 provided in the Forest Practice Rules, California Code of Regulations,
16 title 14, section 895.1, et seq., except as specifically provided in
17 this article:

18 (1) Coho Salmon Impact Evaluation. A "coho salmon impact
19 evaluation" is an evaluation by the Department of potential impacts of
20 proposed timber operations to coho salmon, conducted in accordance
21 with section 787.9.

22 (2) Jeopardy Determination. A "jeopardy determination" is the
23 Department's determination, made in accordance with section 787.6 as
24 to whether issuance of an incidental take permit for proposed timber
25 operations activities would jeopardize the continued existence of coho
salmon.

1 (3) Recovery Unit. A "recovery unit" is a group of watersheds
2 related hydrologically, geologically and ecologically which constitute
3 unique and important components of an Evolutionarily Significant Unit
4 for coho salmon. The coho salmon recovery units are delineated and
5 described in the *Recovery Strategy for California Coho Salmon*
6 (*Oncorhynchus kisutch*) (February 2004), inclusive of amendments.

7 (4) Watersheds with Coho Salmon. "Watersheds with coho salmon"
8 means a planning watershed where coho salmon have been documented by
9 the Department of Fish and Game to be present during or after 1990.

10
11 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

12 Reference: Sections 702 and 2112, Fish and Game Code.

13
14 **Adopt: 787.2 Take Determination for Timber Operations.**

15
16 (a) When acting as a Lead, Responsible or Trustee Agency under
17 the California Environmental Quality Act, Public Resources Code
18 section 21000 et seq. ("CEQA"), where timber operations are proposed
19 in watersheds with coho salmon, subject to the availability of staff,
20 the Department will prepare a "coho salmon impact evaluation" in
21 accordance with section 787.9 and determine whether the proposed
22 timber operations will or are likely to take one or more life stages
23 of coho salmon. Any determination that take will or is likely to occur
24 shall include a description of the activities and project specific
25 conditions which may lead to take.

1 (b) The following is a list of activities that could potentially
2 take coho salmon. This list is not exhaustive and there is no
3 presumption that take will necessarily occur whenever these activities
4 are implemented..

5 (1) Construction, maintenance, replacement and removal of
6 watercourse crossings (e.g., culverts, bridges and Humboldt
7 crossings);

8 (2) Watercourse bank stabilization;

9 (3) Construction, maintenance, replacement, removal and use of
10 fords (i.e., low water crossings);

11 (4) Development, maintenance and operation of water diversion and
12 drafting sites;

13 (5) Construction, maintenance, and use of segments of roads, skid
14 trails, landings and associated drainage facilities hydrologically
15 connected to watercourses;

16 (6) Any physical modification of a channel zone including removal
17 of large wood from a Class I channel zone;

18 (7) Landslides initiated or accelerated by timber operations;

19 (8) Timber operations in a Class I watercourse and lake
20 protection zone, accessible to coho salmon;

21
22 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

23 Reference: Sections 702 and 2112, Fish and Game Code.

24 **Adopt: 787.3 Take of Coho salmon from Timber Operations Prohbited.**

1 (a) Any unauthorized take of coho salmon is prohibited and may be
2 subject to criminal action pursuant to the Fish and Game Code.

3
4 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

5 Reference: Sections 702 and 2112, Fish and Game Code.

6
7 Adopt: 787.4. Incidental Take Permit for Timber Operations Required.

8
9 (a) If the Department determines that proposed timber operations,
10 including activities specified in section 787.2(b) could potentially
11 take coho salmon, and the proposed project is not revised to avoid
12 take in accordance with section 787.5, the Department may authorize
13 incidental take of coho salmon by issuing a permit under the authority
14 of Section 2081 of the Fish and Game Code using any of the following
15 processes if subsection (b) of this section is met:

16 (1) Incidental take permit by certification. The Department may
17 issue an incidental take permit by certification pursuant to section
18 787.7 for timber operations that are not the subject of a timberland
19 conversion permit when timber operations in watersheds with coho
20 salmon incorporate all of the minimization and mitigation measures set
21 forth in Forest Practice Rules, California Code of Regulations, title
22 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1),
23 and 923.9.2 (943.9.2).

24 (2) Incidental take permit incorporating selected measures. An
25 applicant may propose, and the Department will consider an incidental
take permit application prepared in accordance with CESA implementing

1 regulations, California Code of Regulations, title 14, section 783.0
2 et seq., for timber operations that incorporate selected measures from
3 Forest Practice Rules, California Code of Regulations, title 14,
4 sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and
5 923.9.2 (943.9.2). The Department may issue an incidental take permit
6 in accordance with CESA implementing regulations, California Code of
7 Regulations, title 14, section 783.0 et seq.

8 (3) Incidental take permit incorporating watershed evaluation-
9 based measures. An applicant may propose, and the Department will
10 consider an incidental take permit application prepared in accordance
11 with CESA implementing regulations, California Code of Regulations,
12 title 14, section 783.0 et seq., for timber operations that
13 incorporate minimization and mitigation measures based on a watershed
14 evaluation. The watershed evaluation must include the components set
15 forth below and shall be included in addition to the requirements of
16 California Code of Regulations, title 14, section 783.2(a). The
17 Department may issue an incidental take permit in accordance with CESA
18 implementing regulations, California Code of Regulations, title 14,
19 section 783.0 et seq., for timber operations that incorporate
20 minimization and mitigation measures based upon an evaluation of
21 watershed conditions, risks and limiting factors for coho salmon where
22 the timber operations are proposed.

23 (A) The following are required components of a watershed
24 evaluation:

25 (i) Description of assessment area.

1 (ii) Status of coho salmon within each planning watershed in the
2 assessment area.

3 (iii) Status of coho salmon habitat conditions and water quality
4 within each planning watershed in the assessment area.

5 (iv) Identification and prioritization of limiting factors. A
6 reasoned analysis shall assign ratings of high, moderate and low to
7 those factors which may individually or cumulatively limit coho salmon
8 distribution and abundance in the watershed.

9 (v) Proposed planning watershed specific management practices to
10 prevent or control discharges and environmental impacts from timber
11 operations that could contribute to the identified high and moderate
12 risk limiting factors, and; corrective actions that would reduce or
13 eliminate the high and moderate risk limiting factors on the landscape
14 and mitigate the impacts of timber operations which cause or
15 contribute to those limiting factors.

16 (vi) A plan and schedule for implementing proposed management
17 practices.

18 (vii) A program for monitoring implementation and effectiveness
19 of the management practices and, where the plan is not effective in
20 limiting or eliminating the limiting factors as planned an adaptive
21 management strategy for changing the plan and schedule to ensure that
22 limiting factors are reduced or eliminated in the watershed.

23 (4) Incidental take permit incorporating alternative measures. An
24
25

1 applicant may propose, and the Department will consider an incidental
2 take permit application in accordance with CESA implementing
3 regulations, California Code of Regulations, title 14, section 783.0
4 et seq. The application submitted in accordance with California Code
5 of Regulations, title 14, section 783.2 may specify minimization and
6 mitigation measures included in the Forest Practice Rules, California
7 Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2,
8 (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2) and/or project
9 specific minimization and mitigation measures developed by the
10 applicant. The Department will review and render a decision on the
11 application in accordance with California Code of Regulations, title
12 14, sections 783.3, 783.4, and 783.5

13 (b) In order to issue an incidental take permit under the
14 processes outlined in this section, the permit issuance criteria set
15 forth in Section 2081(b) of the Fish and Game Code must be met. In
16 addition, as required by Section 2081(c) of the Fish and Game Code,
17 the Department shall not issue an incidental take permit for coho
18 salmon if issuance of the permit would jeopardize the continued
19 existence of the species. The Department will determine whether
20 issuance of the permit would jeopardize the continued existence of the
21 species in accordance with section 787.6.

22
23
24 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

25 Reference: Sections 702 and 2112, Fish and Game Code.

1 **Adopt: 787.5. Incidental Take Permit for Timber Operations Not**
2 **Required.**

3
4 (a) If the Department determines proposed timber operations will
5 avoid take of coho salmon, an incidental take permit under section
6 2081 of the Fish and Game Code is not required.

7 (b) If the Department determines proposed timber operations,
8 including activities specified in section 787.2(a), could potentially
9 take coho salmon, and as a result of a request by the project
10 proponent or Lead Agency to consult with the Department, the project
11 proponent revises or incorporates specific measures into the proposed
12 project or the Lead Agency requires specific measures to be
13 incorporated into the proposed project that the Department determines
14 will avoid take, an incidental take permit under section 2081 of the
15 Fish and Game Code is not required.

16 (c) If the Department determines pursuant to section 2080.1 of
17 the Fish and Game Code that an incidental take statement or permit for
18 coho salmon issued by the Secretary of Commerce for proposed timber
19 operations is consistent with CESA, no further authorization or
20 approval is necessary.

21 (d) Regardless of whether the Department first makes a
22 determination regarding the take of coho salmon, the Department and
23
24 any project proponent may enter into a memorandum of understanding or
25 a planning agreement pursuant to section 2810 of the Fish and Game
Code that specifies project revisions, guidelines, or take avoidance

1 measures, which the Department concludes will avoid take. An
2 incidental take permit under section 2081 of the Fish and Game Code is
3 not required for timber operations or activities carried out in
4 accordance with any such memorandum of understanding or planning
5 agreement.

6
7 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

8 Reference: Sections 702 and 2112, Fish and Game Code.

9
10 **Adopt: 787.6. Jeopardy from Timber Operations Prohibited**

11
12 (a) If the Department determines that take will, or is likely to
13 result from proposed timber operations, the Department must conduct an
14 additional analysis to determine if issuance of an incidental take
15 permit for the proposed timber operations will jeopardize the
16 continued existence of coho salmon. This means determining whether
17 issuance of an incidental take permit for proposed activities would be
18 expected, directly or indirectly, to substantially reduce the
19 likelihood of survival of coho salmon in the wild by reducing the
20 reproduction, numbers or distribution of the species.

21 (b) A jeopardy determination will be made using an analysis at
22 the scale of the coho salmon recovery unit and will be made for the
23 Evolutionarily Significant Unit. A jeopardy determination must be
24 based upon the best scientific and other information that is
25 reasonably available, which may include, but not necessarily be
limited to, consideration of:

1 (1) coho salmon's ability to survive and reproduce; and
2 (2) any adverse impacts of the taking on coho salmon's ability to
3 survive and reproduce in light of :

4 (A) known population trends;
5 (B) known threats to the species; and
6 (C) reasonably foreseeable impacts on the species from other
7 related projects and activities.

8 (c) The Department could determine that proposed timber
9 operations will jeopardize the continued existence of coho salmon if
10 one or more of the following criteria are met and the impact will
11 likely reduce the numbers of coho salmon in the recovery unit
12 returning to spawn successfully in future years.

13 (1) One or more cohorts of coho salmon within the recovery unit
14 return in very low numbers, or not at all, and timber operations will
15 likely "take" a substantial number of any life stage of coho salmon.

16 (2) Timber operations will create a barrier to passage or
17 substantially reduce access by coho salmon to any habitat used for
18 migration, spawning or rearing.

19 (3) One or more cohorts of coho salmon within the recovery unit
20 return in very low numbers, or not at all, and timber operations will
21 directly or incrementally through cumulative effects render existing
22 spawning or rearing habitat unsuitable for continued use by coho
23 salmon.

24 (4) Exceptional project specific circumstances exist or are
25 proposed which will reduce the numbers of coho salmon in the recovery
unit returning to spawn successfully in future years.

1 (d) Where the Department determines that proposed timber
2 operations are likely to jeopardize the continued existence of coho
3 salmon, the Department shall consult, upon request by the project
4 proponent or Lead Agency, and specify reasonable and prudent
5 minimization and mitigation measures which, if fully implemented, will
6 avoid jeopardy while maintaining the project purpose to the greatest
7 extent possible.

8 (e) Where, following such consultation, the project proponent
9 declines to incorporate all of the specified reasonable and prudent
10 minimization and mitigation measures into the proposed project, the
11 Department shall not issue an incidental take permit. If, however, the
12 project proponent agrees to incorporate all of the specified
13 reasonable and prudent minimization and mitigation measures into the
14 proposed project to avoid jeopardy, the Department may issue an
15 incidental take permit if the permit issuance criteria set forth in
16 Section 2081(b) are met.

17
18 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

19 Reference: Sections 702 and 2112, Fish and Game Code.

20
21 **Adopt: 787.7 Incidental Take Permit by Certification for Timber**
22 **Operations**

23
24 (a) The Department may permit incidental take of coho salmon from
25 timber operations by certification of compliance under this section if
all of the following are satisfied:

1 (1) The permittee certifies in writing that the permittee agrees
2 to comply with and incorporate into its timber operations all
3 minimization and mitigation measures specified in Forest Practice
4 Rules, California Code of Regulations, title 14, sections 916.9.1
5 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2
6 (943.9.2) as identified and described in a THP or Notice of Timber
7 Operations attached to the certification. Preconsultation with the
8 Department prior to submittal of the certification and attached THP or
9 Notice of Timber Operations is strongly recommended in order to
10 facilitate acceptance and return receipt of the certification.).

11 (2) The permittee includes implementation and effectiveness
12 monitoring procedures and schedules in the Timber Harvesting Plan
13 (THP) or Notice of Timber Operations. Monitoring which is specified in
14 the THP or Notice of Timber Operations to meet other regulatory
15 requirements may be determined by the Department to satisfy the
16 issuance criteria for an incidental take permit;

17 (3) The permittee provides a financial security for performance
18 in a form and amount acceptable to the Department in accordance with
19 section 787.8.

20 (4) The permittee provides written consent to the Department for
21 access to inspect timber operations during and following completion of
22 operations for compliance monitoring.

23 (5) The Department returns a signed receipt of the certification
24 finding that it meets the requirements of Sections 2081(b) and (c) of
25 the Fish and Game Code. If any of these requirements is not met (e.g.,

1 a financial security in a form and amount acceptable to the Department
2 is not provided), the Department shall not sign and return receipt of
3 the certification.

4 (6) The THP or Notice of Timber Operations which is the subject
5 of the certification is approved by the California Department of
6 Forestry and Fire Protection.

7 (b) Effect of Certification.

8 (1) A certification that is signed by the Department is an
9 incidental take permit for coho salmon that becomes effective only
10 after both of the following have occurred:

11 (A) The THP or Notice of Timber Operations attached to the
12 certification, which contains the required minimization and
13 mitigation measures, is approved by the California Department of
14 Forestry and Fire Protection; and

15 (B) The permittee receives the signed certification from the
16 Department from the appropriate regional office.

17 (2) The incidental take permit by certification authorizes
18 incidental take of coho salmon from the timber operations described in
19 the THP or Notice of Timber Operations that is attached to the
20
21 certification. Any incidental take from operations that deviate from
22 such timber operations, whether under subsequent amendments to the THP
23 or Notice of Timber Operations or otherwise, is not authorized by this
24 permit by certification.

25 (3) CESA implementing regulations governing permit revocation and
suspension (California Code of Regulations, title 14, section 783.7)

1 apply to an incidental take permit by certification.

2 (c) Form of Certification. The certification required by section
3 787.7 shall take substantially the following form:

4
5 CERTIFICATION OF COMPLIANCE

6
7 I certify that all of the minimization and mitigation measures set
8 forth in Forest Practice Rules, California Code of Regulations, title
9 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1),
10 and 923.9.2 (943.9.2) including any alternative measures provided in
11 these sections are included as enforceable elements of the attached
12 Timber Harvesting Plan (THP) or Nonindustrial Timber Management Plan
13 (NTMP) Notice of Timber Operations.

14
15 I acknowledge that these measures are roughly proportional in extent
16 to the impact of the authorized take of the species, the measures
17 maintain my project objectives to the greatest extent possible, and
18 they are capable of successful implementation. I understand that this
19 permit allows incidental take of coho salmon pursuant to CESA; it does
20 not authorize the violation of any Federal, State or local laws or
21 regulations. I understand that this incidental take permit becomes
22 effective after both of the following have occurred: (1) the THP or
23 Notice of Timber Operations containing the required measures is
24 approved by the Department of Forestry and Fire Protection; and (2) I
25 have received receipt of the certification signed by the Department of

1 Fish and Game from the appropriate address below. I understand that
2 this certification permits incidental take of coho salmon from the
3 timber operations described in the attached THP or Notice of Timber
4 Operations. Any incidental take from operations that deviate from such
5 timber operations, whether under subsequent amendments to the THP or
6 Notice of Timber Operations or otherwise, is not authorized by this
7 permit by certification.

8
9 I certify that the information submitted in this certification is
10 complete and accurate to the best of my knowledge and belief. I
11 understand that any false statement herein or failure to comply with
12 the terms of the permit (e.g., unauthorized take under CESA for
13 undertaking a project that differs from the one described in the
14 attached THP or Notice of Timber Operations, or failure to properly
15 implement required minimization and mitigation measures) may subject
16 me to suspension or revocation of this permit and to civil and
17 criminal penalties under the laws of the State of California.

18
19
20
21 THP or NTMP designation: _____

22 Proposed beginning date of timber operations: _____

23 End date for timber operations: _____
24
25

1 Attached is the security for performance, calculated in accordance
2 with section 787.8, ensuring adequate funding to implement measures to
3 minimize and fully mitigate impacts of authorized take, and for
4 monitoring compliance with and effectiveness of, those measures.

5 The undersigned is responsible for immediately notifying the
6 Department of Fish and Game of any deviations from the above.

7
8
9 (RPF or authorized representative signature) Date

10
11 The undersigned is authorized to provide consent to the Department of
12 Fish and Game to access and inspect the subject timber operations
13 during and following completion of operations, and hereby provides
14 such authorization to the Department of Fish and Game.

15
16
17 (authorized representative signature) Date

18
19
20
21
22
23 For Del Norte, Humboldt, Mendocino, Siskiyou or Trinity Counties

24
25 Regional Manager

Department of Fish and Game

601 Locust Street

Redding, CA 96001

(530) 225.2300

For Santa Cruz, San Mateo, Marin, or Sonoma Counties

Regional Manager

Department of Fish and Game

P.O. Box 47

Yountville, CA 94599

(707) 944.5500

The Department of Fish and Game [circle one: finds/does not find]

that: (1) the activities identified in the attached THP or NTMP Notice

of Timber Operations may result in take of coho salmon incidental to

an otherwise lawful activity; where the Department of Fish and Game

finds that the activities may result in incidental take, the

Department of Fish and Game finds that: (2) the impacts of authorized

take will be minimized and fully mitigated; the measures required to

meet this obligation are roughly proportional in extent to the impact

of the authorized take; where various measures are available to meet

this obligation, the impacts of take, the measures maintain the

applicant's objectives to the greatest extent possible; and the

measures are capable of successful implementation; (3) this permit by

certification of compliance is consistent with regulations adopted

pursuant to Sections 2112 and 2114 of the Fish and Game Code; (4) the permittee has assured adequate funding to implement the required measures and for monitoring compliance with and effectiveness of those measures; (5) and issuance of the permit by certification which is approved by the signature below will not jeopardize the continued existence of coho salmon. The Department of Fish and Game's findings are based upon the certification submitted; the approved THP or Notice of Timber Operations and associated environmental review and impact analysis; the administrative records supporting the incorporated Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2), and the Incidental Take Permit Guidelines for Timber Operations, section 787.0 *et seq.*, and other information the Department of Fish and Game had before it at the time of the certification.

DFG Regional Manager

Date

Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

Reference: Sections 702 and 2112, Fish and Game Code.

Adopt: 787.8 Security for Performance for Incidental Take Permits

1 (a) As required by Fish and Game Code section 2081(b)(4) and CESA
2 implementing regulations, California Code of Regulations, title 14,
3 section 783.4(a)(4), the permit applicant must assure adequate funding
4 to implement the required measures and for monitoring compliance with,
5 and effectiveness of, those measures. Acceptable forms of financial
6 security include a pledged savings or trust account, certificate of
7 deposit, irrevocable letter of credit, or other form security that is
8 approved by the Department. Security must be provided to the
9 appropriate Department Regional Manager by certified mail together
10 with the Certification of Compliance.

11 (b) Where incidental take is authorized through section 787.5(c),
12 no additional security for performance is required.

13 (c) Where incidental take is authorized through section 787.4(a)
14 (2), (3) or (4), security for performance is required and shall be
15 determined on a project specific basis.

16 (d) Where incidental take is authorized through section 787.4(a)
17 (1), security shall be provided in accordance with the following and
18 shall include a Road Component and an Area Component.

19 (1) Road Component

20 (A) The security for performance for the Road Component shall be
21 calculated at the rate of \$5,000/mile for all roads appurtenant to the
22
23 proposed THP or Notice of Timber Operations.

24 (B) The security for performance for the Road Component will be
25 returned to the permittee upon completion of the Prescribed

1 Maintenance Period provided that all requirements of Forest Practice
2 Rules, California Code of Regulations, title 14, sections 923.9.1
3 (943.9.1), and 923.9.2 (943.9.2) have been properly implemented.

4 (C) The security for performance for the Road Component will be
5 forfeited by the permittee if all of the requirements of Forest
6 Practice Rules, California Code of Regulations, title 14, sections
7 923.9.1 (943.9.1), and 923.9.2 (943.9.2) have not been properly
8 implemented, except that the Department may, at its discretion, return
9 all or part of the security for performance of an applicable component
10 if in the Department's judgment the Permittee has completely remedied
11 its failure to properly implement a required measure or measures.

12 (2) Area Component

13 (A) The security for performance for the Area Component shall be
14 calculated at the rate of \$500/acre for all proposed Watercourse and
15 Lake Protection Zones and those Equipment Exclusion Zones and
16 Equipment Limitation Zones which are established for Class III
17 Watercourses, inner gorges and connected headwall swales.

18 (B) The security for performance for the Area Component will be
19 returned to the permittee upon filing of the Notice of Completion,
20 provided that all requirements of Forest Practice Rules, California
21 Code of Regulations, title 14, sections 916.9.1 (936.9.1) and 916.9.2,
22 (936.9.2) have been properly implemented.

23 (C) The security for performance for the Area Component Security
24 will be forfeited by the permittee if all of the requirements of
25 Forest Practice Rules, California Code of Regulations, title 14,
sections 916.9.1 (936.9.1) and 916.9.2, (936.9.2) have not been

1 properly implemented, except that the Department may, at its
2 discretion, return all or part of the security for performance of an
3 applicable component if in the Department's judgment the Permittee has
4 completely remedied its failure to properly implement a required
5 measure or measures.

6 (c) Notwithstanding, Section 787.7(a) the Department may, at its
7 discretion, refuse to permit incidental take of coho salmon from
8 timber operations by certification of compliance under this article if
9 the applicant previously obtained an incidental take permit by
10 certification of compliance under this article and the security for
11 performance for that permit was forfeited in whole or part for a
12 failure to properly implement a required measure or measures.

13
14 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

15 Reference: Sections 702 and 2112, Fish and Game Code.
16
17

18 **Adopt: 787.9 Coho Salmon Impact Evaluation**
19

20 (a) When acting as a Lead, Responsible, or Trustee Agency under
21 CEQA, and , subject to the availability of sufficient staff, the
22 Department will evaluate potential impacts of proposed timber
23 operations on coho salmon. Where the Department is a Responsible or
24 Trustee Agency, the Department shall provide a reasoned analysis and
25 determination, to the extent possible within the time frames
established by regulation for environmental review and within any

1 written communication to the Lead Agency addressing any other trustee
2 responsibilities of the Department.

3 (b) The Department may determine that proposed timber operations
4 will have potentially significant impacts within watersheds with coho
5 salmon if one or more of the following criteria are met:

6 (1) One or more cohorts of coho salmon return in low numbers or
7 not at all, and timber operations will contribute net additional
8 sediment to spawning and rearing habitat in the planning watershed
9 where timber operations are proposed or the planning watershed
10 immediately downstream.

11 (2) One or more cohorts of coho salmon return in very low
12 numbers, or not at all, and timber operations will further reduce
13 shading within a Class I watercourse and lake protection zone
14 accessible to coho salmon, in a planning watershed where water
15 temperatures limit habitat suitability for any life stage of coho
16 salmon.

17 (3) One or more cohorts of coho salmon return in very low
18 numbers, or not at all, and timber operations will reduce the
19 potential for recruitment of functional large woody material from the
20 Class I watercourse and lake protection zone into a Class I
21 watercourse accessible to coho salmon in a planning watershed where
22 excessive sediment impairs coho salmon spawning or rearing.

23 (4) A substantial number of coho salmon will likely be taken by
24 the proposed timber operations. For this determination, "substantial "
25 means that the impact will, by itself, reduce the likelihood of coho
salmon returning to spawn successfully in future years.

1 (5) The proposed timber operations will likely reduce access to
2 habitat used by coho salmon for migration, spawning or rearing.

3 (c) Where the Department determines that project impacts are
4 likely to be significant, Department staff shall, upon request,
5 consult with the project proponent or lead agency to identify and
6 propose mitigation measures intended to reduce potentially significant
7 impacts to a level which is less than significant.

8 (d) Where timber operations incorporate all of the measures set
9 forth in Forest Practice Rules, California Code of Regulations, title
10 14, sections 895.1; 916.9 and 936.9 and 956.9; 923.9, 943.9 and 963.9;
11 916.9.1 and 936.9.1; 916.9.2 and 936.9.2; 916.11.1 and 936.11.1; 923.9.1 and
12 943.9.1; and 923.9.2 and 943.9.2, the Department shall conclude that any
13 impacts pursuant to 787.9(b)(1-5) have been sufficiently mitigated to
14 a level which is less than significant.

15
16 Note: Authority cited: Sections 702 and 2112, Fish and Game Code.

17 Reference: Sections 702 and 2112, Fish and Game Code.
18
19
20
21
22
23
24
25